

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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VICTOR KENNARD BOONE BEY,

Petitioner,

v.

Case No. 04-74594

DOUG VASBINDER,

Respondent.

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**OPINION AND ORDER DENYING MOTION FOR RECONSIDERATION**

Petitioner Victor Kennard Boone Bey first filed a petition for writ of habeas corpus on November 23, 2004. This court denied that petition on January 22, 2007. Petitioner received a certificate of appealability from this court on March 6, 2007. The Court of Appeals for the Sixth Circuit subsequently affirmed the denial of the petition on February 5, 2008. The Supreme Court denied certiorari on October 29, 2008.

Petitioner then filed a motion for relief from judgment under Federal Rule of Civil Procedure 60(b) on March 22, 2010. This court treated the motion as a “second or successive” petition for a writ of habeas corpus under *Gonzalez v. Crosby*. 545 U.S. 524 (2005). On August 4, 2010, this court then transferred the motion to the Court of Appeals for the Sixth Circuit to determine whether the motion may be heard. See 28 U.S.C. 2244(b)(3)(A). This court considered Petitioner’s claim and the 2008 opinion of the Court of Appeals in declining to issue a certificate of appealability. Petitioner then filed the pending motion for reconsideration on September 2, 2010.

Eastern District of Michigan Local Rule 7.1(h) provides that a motion for reconsideration shall be granted if the movant can “demonstrate a palpable defect by

which the court and the parties and other persons entitled to be heard on the motion have been misled,” and show that “correcting the defect will result in a different disposition of the case.” E.D. Mich. LR 7.1(h)(3). As applied to Petitioner’s motion, this rule requires Petitioner to show a palpable defect in this court’s decision denying a certificate of appealability regarding this court’s opinion treating his motion for relief from judgment as a second petition for a writ of habeas corpus. Petitioner has instead presented argument only that this court did not undertake sufficient analysis of the sole issue before it. Relying on cases requiring separate analysis of each claim where a certificate of appealability is *granted* on *multiple claims* that were properly before the courts, Petitioner argues for a more thorough consideration of his motion for reconsideration. Such cases are inapplicable here, and Petitioner makes no other arguments supporting reconsideration. As Petitioner has failed to identify any palpable defect, there is no reason to grant this motion for reconsideration. Accordingly,

IT IS ORDERED that the motion for reconsideration [Dkt. # 47] is DENIED.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: September 29, 2010

I hereby certify that a copy of the foregoing document was mailed to counsel of record and petitioner Victor Boone Bey #168866, Michigan Reformatory, 1342 W Main Street, Ionia, MI 48846 on this date, September 29, 2010, by electronic and/or ordinary mail.

s/Lisa G. Wagner  
Case Manager and Deputy Clerk  
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